

REMARKS

Claims 19-23 and 25-29 were pending as of the mailing date of the present Non-Final Office Action. By way of the above amendment, claims 19-21 and 25-29 have been canceled. No new matter has been added. The above amendment is not to be construed as acquiescence to the stated grounds for objection/rejection and is made without prejudice to prosecution of any subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application. Reconsideration of claims 22-23 is respectfully requested in view of the above amendment and the following remarks.

Applicants wish to thank the Examiner for discussing this and related cases during the interview conducted by telephone on November 29, 2005. During the interview, the outstanding rejections under 35 U.S.C. §§ 112 and 102 and nonstatutory obviousness-type double patenting were discussed.

***Claim Rejections Under 35 U.S.C. § 112, second paragraph (indefiniteness)***

Claims 25-26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Action contends that claims 25-26 are unclear since they refer to a population according to claim 22 when claim 22 comprises a method.

Without acquiescing to the rejection, Applicants have canceled claims 25-26 without prejudice and solely for the purposes of expediting prosecution. Applicants submit that the rejection has been obviated by this amendment and respectfully request reconsideration and withdrawal of the rejection.

***Claim Rejections Under 35 U.S.C. § 112, first paragraph (written description/enablement)***

Claims 20-21 and 29 stand rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Action contends that the specification as originally filed does not provide an adequate written description to show possession of the entire scope of the invention. Further, the Action contends that Applicants'

showing is too limited to be considered to enable inhibiting all the different types of cancer claimed or the generic term "cancer."

Applicants respectfully traverse the rejection and submit that the specification as filed provides written description and enablement for the claimed invention. However, without acquiescence and solely to expedite prosecution, Applicants have canceled claims 20-21 and 29. This amendment is not to be construed as acquiescence to the stated grounds for rejection and is made without prejudice to prosecution of any subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application. Accordingly, Applicants submit that the rejection has been obviated and may be properly withdrawn.

#### ***Double Patenting***

Claims 20-23 and 29 are provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 93-95 in copending Application No. 10/350,305. Claims 20-23 and 29 are provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-21 of US Patent No. 6,867,041. Claims 25-26 are provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 72, 80 and 91-92 in copending Application No. 10/984,351 and over claims 73-79 in copending Application No. 11/001,921.

As an initial matter, Applicants note that claims 19-21 and 25-29 have been canceled. This amendment is not to be construed as acquiescence to the stated grounds for rejection and is made without prejudice to prosecution of any subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application. Accordingly, Applicants submit that the rejection as it relates to these claims has been obviated.

Regarding the rejection of claims 22-23 over claims 93-95 in copending Application No. 10/350,305, and over claims 1-21 of US Patent No. 6,867,041, Applicants respectfully traverse this ground for rejection and submit that these references do not teach or

suggest in the claims the methods for activating and expanding regulatory T cells as recited in the instantly claimed methods. Nevertheless, as term of the present patent will not be affected, and without acquiescing to the ground of rejection, Applicants submit herewith an executed terminal disclaimer thereby obviating this ground for rejection.

***Claim Rejections Under 35 U.S.C. § 102***

Claims 22-23 and 25-26 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Creson *et al.* (Journal of Virology 73(11) 1999). In particular, the Action contends that Creson teaches the activation and expansion of T cells using ligands of anti-CD3 and anti-CD28. Accordingly, the Action concludes that the reference anticipates the claimed subject matter.

As noted above, claims 25-26 have been canceled without prejudice or acquiescence. Applicants respectfully traverse the rejection of claims 22-23 and submit that nowhere does the cited reference teach or suggest a method for activating and expanding regulatory T cells. Accordingly, Applicants submit that the cited reference does not anticipate the present claims. Reconsideration and withdrawal of the rejection is respectfully requested.

In view of the above amendments and remarks, the claims are now believed to be in condition for allowance. A good faith effort has been made to place the application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at 206-622-4900 to resolve same.

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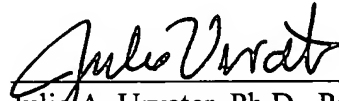
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Application No. 10/762,210  
Reply to Office Action dated October 4, 2005

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



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Enclosures:

Terminal Disclaimers (2)

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